

### **REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Official Action dated 11 March 2004. Responsive to the rejection made in the Official Action, Claim 1 has been cancelled by this Amendment and replaced by new Claim 2, which was the easiest method to clarify the combination of elements that form the invention of the subject Patent Application.

In the Official Action, the Examiner rejected Claim 1 under 35 U.S.C. § 103, as being unpatentable over Khachatoorian, U.S. Patent 6,276,071, in view of Murray, U.S. Patent 6,449,866. The Examiner stated that the Khachatoorian reference disclosed a tape rule housing comprising a left half case, a recess in its upper edge, an upward extending portion plate, a recess in the lower edge, and a soft rubber material having an outer periphery with a plurality of arrayed rib elements. The Examiner further stated that the reference disclosed a half right case that was constructed like the half left case. The Examiner then stated that the reference did not disclose a housing being made of plastic, but referred to the Murray reference as disclosing a tape housing formed of molded plastic. The Examiner then concluded that it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the Khachatoorian tape housing from plastic, as taught by Murray.

It is respectfully submitted that the Khachatoorian reference discloses a tape measure with tape breaking control mechanism wherein the housing 12 is

formed by two mating hollow housing portions 14 and 16. The two housing portions 14 and 16 are joined along a parting line 18 and have upper and lower walls 22 and 24. The upper wall 22 is substantially covered by an upper elastomeric slip resistant material  $N_1$  and the lower wall 24 is overlaid by a similar material  $N_2$ . However, as clearly shown in Fig. 5, the upper wall portion of each half case extends substantially horizontally and without any vertically extending partition plate formed thereon.

Whereas, in the invention of the subject Patent Application as shown in Fig. 2, the recess 11, in each half case, extends from an outer side thereof to an upwardly extending partition plate 12 disposed adjacent the inner side of the case half. By that arrangement, the upwardly extending partition plates of each case half is disposed in juxtaposition, one with respect to the other, when the case halves are coupled together. Such provides an increased surface area for joining the two case halves. Additionally, the upwardly extending partition plates also provide a vertically directed surface upon which each rubber pad is affixed to a respective case half. Thus, the rubber pads are adhered to both horizontal and vertical surfaces to improve the coupling to the case halves.

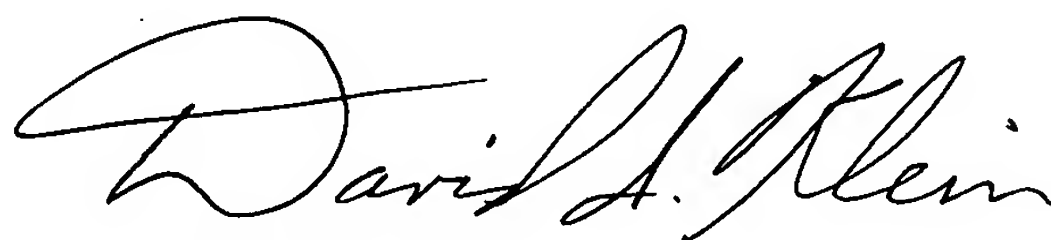
Nowhere does the Khachatoorian reference disclose or suggest forming recesses in each case half that extend from an outer side of the case half to an upwardly extending partition plate disposed adjacent the inner side of the case

half, the upwardly extending partition plates of the pair of case halves being disposed in juxtaposition, as now claimed.

The Murray reference does not overcome the deficiencies of Khachatoorian. The Murray reference, while disclosing a housing formed of a plastic material, fails to disclose or suggest the incorporation of any recesses to which rubber pads are affixed. The Murray reference fails to disclose or suggest a recess which extends from an outer side of each case half to an upwardly extending partition plate disposed adjacent the inner side of the case half. Thus, the combination of Khachatoorian and Murray cannot make obvious the invention of the subject Patent Application, as now claimed.

It is now believed that the subject Patent Application has been placed in condition for allowance, and such action is respectfully requested.

Respectfully submitted,



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